

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

EMMETT COLLINS III

DEFENDANTS COUNTY OF ALAMEDA; Alameda County Sheriff's Deputy R. PECK; Alameda County Sheriff's Deputy S. SORENSEN;

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

ALAMEDA COUNTY

County of Residence of First Listed Defendant DOES 1-25 inclusive
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

John L. Burris (510) 839-5200
Law Offices of John L. Burris
7677 Oakport Street, Suite 1120
Oakland, CA 94621

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | PTF | DEF | | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|-----|-----|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | | |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	PRISONER PETITIONS	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	Habeas Corpus:	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 444 Welfare	IMMIGRATION		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 447 Other Civil Rights	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1983

VI. CAUSE OF ACTION

Brief description of cause: false arrest and excessive force (law enforcement officers)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 2,000,000
CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE May 6, 2008

SIGNATURE OF ATTORNEY OF RECORD

E-filing

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EMMETT COLLINS III

FILED
MAY 19 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

File
Pay
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADR

EMMETT COLLINS III,

C08-02522
NO.

EDL

Plaintiff,

COMPLAINT FOR DAMAGES
[CIVIL RIGHTS]

vs

JURY TRIAL DEMANDED

COUNTY OF ALAMEDA; Alameda
County Sheriff's Deputy
R. PECK; Alameda County
Sheriff's Deputy S. SORENSEN;
DOES 1 - 25, inclusive,

Defendants.

JURISDICTION

1. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The unlawful acts and practices alleged herein occurred in Hayward, California which is within this judicial district.

PARTIES

COMPLAINT FOR DAMAGES [CIVIL RIGHTS]

1

GO 14 SEC. H
NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE

1 2. Plaintiff EMMETT COLLINS III ("COLLINS"/"Plaintiff")
2 was a citizen of the United States and a resident of Hayward,
3 California, at all times herein mentioned.

4 3. Defendant COUNTY OF ALAMEDA is a governmental entity
5 within the state of California, one of whose agencies is the
6 Alameda County Sheriff, an elected official responsible for the
7 management of the Alameda County Sheriff's Department and its
8 deputies, officers and employees. Defendant COUNTY OF ALAMEDA
9 is subject to suit pursuant to 42 U.S.C. § 1983 and Monell v.
10 Dept. of Social Services, 436 U.S. 658 (1978).

11 4. Defendants R. PECK and S. SORENSEN were at all times
12 mentioned herein, sheriff's deputies employed by the Alameda
13 County Sheriff's Department and COUNTY OF ALAMEDA ("COUNTY").
14 These defendants are sued herein individually and in their
15 official capacity. In engaging in the conduct described
16 herein, said defendants acted under the color of law in the
17 course and scope of their employment for COUNTY. In engaging
18 in the conduct described herein, said defendants exceeded the
19 authority vested in them under the United States Constitution
20 and as employees of the COUNTY OF ALAMEDA.

21 5. Plaintiff is ignorant of the true names and
22 capacities of defendants DOES 1 through 25, inclusive, and
23 therefore sues these defendants by such fictitious names.
24 Plaintiff is informed and believes and thereon alleges that
25 each defendant so named is responsible in some manner for the
26 injuries and damages suffered by plaintiff as set forth herein.

1 Plaintiff will amend his complaint to state the true names
2 and/or capacities of defendants DOES 1 through 25, inclusive,
3 when they have been ascertained.

4 6. At all times herein mentioned, each and every
5 defendant was the agent or employee of their co-defendants, and
6 in doing the things hereinafter alleged, were acting within the
7 course and scope of such agency or employment and with the
8 actual or implied permission, consent, authorization, and
9 approval of their co-defendants.

10 STATEMENT OF FACTS

11 7. Emmett Collins III ("COLLINS"), an African-American,
12 was arrested by defendants PECK and SORENSEN at approximately
13 midnight on December 14, 2006. At the time of his arrest, he
14 was seated in his car on Filbert Street near its intersection
15 with B Street in Hayward, California, eating a sandwich. PECK
16 arrived in his patrol car, got out and approached the driver's
17 side window of COLLINS' car and asked him for identification.
18 While COLLINS put his sandwich down, reaching for his wallet,
19 he asked PECK why he was being questioned. When PECK replied
20 that COLLINS looked suspicious, COLLINS, thought he was being
21 "profiled" and asked PECK to call his sergeant. PECK became
22 hostile and aggressive and told COLLINS he was under arrest
23 because PECK was unable to identify him. PECK pulled COLLINS
24 from the car and placed him in handcuffs. Deputy S. SORENSEN
25 arrived as PECK hit a restrained COLLINS several times with his
26 flashlight, including strikes to the head. Once SORENSEN and
27

1 PECK saw the condition COLLINS was in--his face was a bloody
2 mess--they called for an ambulance. COLLINS was transported by
3 ambulance to Eden Medical Center. COLLINS sustained a gash on
4 his forehead, a fractured eye socket and a broken nose in
5 addition to bruises and abrasions. COLLINS had no criminal
6 history before PECK caused charges to be filed against him for
7 resisting arrest. The charges were eventually dropped.

8 **CLAIMS REQUIREMENT**

9 8. Plaintiff complied with all applicable requirements
10 precedent to filing a civil suit.

11 **DAMAGES**

12 9. As direct, actual and proximate result of defendants'
13 conduct, plaintiff was severely and permanently injured in his
14 health and strength, sustaining severe head and facial injury
15 and bruises and abrasions. He incurred expenses as a result of
16 his car being towed from the scene of the arrest. He was held
17 in Santa Rita Jail for two days, made more than half a dozen
18 court appearances, losing one job as a result and losing wages
19 in his subsequent employment. COLLINS continues to experience
20 anxiety, terror, shame and humiliation as well as a loss of his
21 security and pride in his ethnicity because he understands his
22 injuries to have been occasioned in part because of his racial
23 identity as an African-American.

24 10. The conduct of PECK and SORENSEN was oppressive,
25 malicious, wanton and justifies an award of punitive damages
26 against each of those defendants.

1 11. Plaintiff found it necessary to engage the services
2 of private counsel to vindicate his rights under the law and is
3 therefore entitled to an award of all attorney's fees incurred
4 in relation to this action for violation of his rights.

5 FIRST CAUSE OF ACTION

6 (42 U.S.C. § 1983)

7 (Against defendants PECK and SORESENSEN,
8 and DOES 1 through 25, inclusive)

9 12. Plaintiff realleges and incorporates by reference
10 herein paragraphs 1 through 1 of this complaint.

11 13. In doing the acts complained of herein, defendants
12 acted under color of law to deprive the plaintiff of certain
13 constitutionally protected rights, including, but not limited
14 to:

15 a. The right not to be deprived of life or liberty
16 without due process of law, as guaranteed by the fifth and
17 fourteenth Amendments to the United States Constitution;

18 b. The right to equal protection of the laws, as
19 guaranteed by the fourteenth Amendment to the United States
20 Constitution;

21 c. The right to be free from the use of excessive use of
22 force by law enforcement officers, as guaranteed by the fourth,
23 fifth and fourteenth Amendments to the United States
24 Constitution; and,

25 d. The right to be free from preconviction punishment as
26 guaranteed by the fourth, fifth and fourteenth Amendments to
27 the United States Constitution.

28 14. As a proximate result of said deprivations of these

COMPLAINT FOR DAMAGES [CIVIL RIGHTS]

1 constitutional rights plaintiff herein suffered damages and
2 injuries.

3 WHEREFORE, Plaintiff pray for relief as set forth herein.

4 SECOND CAUSE OF ACTION
5 (42 U.S.C. § 1983)
6 (Against defendant COUNTY)

7 15. Plaintiff realleges and incorporates by reference
8 herein paragraphs 1 through 14 of this complaint.

9 16. Defendant COUNTY and the Alameda County Sheriff were,
10 prior to this incident, given notice of a pattern of ongoing
11 constitutional violations and unlawful practices, and likely
12 continuance of same by one or both of the defendant sheriff's
13 deputies while in their employ and/or under their supervision.
14 Said pattern and practices have resulted in, and continue to
15 result in the wrongful injury of African-American citizens
16 taken into custody in Alameda County. Despite this notice,
17 defendant COUNTY and the Alameda County Sheriff demonstrated
18 deliberate indifference to these patterns and practices of
19 constitutional violations by failing to take the necessary,
20 appropriate, or adequate preventative measures. This lack of
21 an adequate supervisory response by defendants demonstrates
22 the existence of an informal custom or policy which tolerates
23 the continued violation of civil rights of American citizens by
24 the deputies, sergeants and officers supervised by the Alameda
25 County Sheriff.

26 17. The acts of the individual defendants alleged herein
27 are foreseeable and proximate results of the indifference of

COUNTY, the Alameda County Sheriff and subordinate supervisory officials and employees to the pattern, practices, customs and policies described above.

WHEREFORE, Plaintiff prays for relief as set forth herein.

JURY DEMAND

Plaintiff hereby demands a jury trial in this action.

PRAYER

WHEREFORE, plaintiff prays for relief as follows.

1. For special damages in an amount to be proven;
2. For general damages in the sum of \$2,000,000.00;
3. For punitive damages against the individually named officers in an amount sufficient to make an example of the individual defendants and to deter future misconduct;
4. For reasonable attorney's fees;
5. For costs of suit incurred herein; and
6. For such other and further relief as the Court may deem just and proper.

Dated: May 16, 2008

LAW OFFICES OF JOHN L. BURRIS

By: 

John L. Burris, Esq.
Attorney for Plaintiff
EMMETT COLLINS III